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this Memorandum Decision shall not be
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**IN THE
COURT OF APPEALS OF INDIANA**

A.T.,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 49A02-0608-JV-712
)	
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE MARION SUPERIOR COURT JUVENILE DIVISION
The Honorable Christopher Piazza, Magistrate
Cause No. 49D09-0605-JD-1705

February 28, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Chief Judge

A.T. was adjudicated a delinquent child for committing criminal trespass,¹ which would have been a Class A misdemeanor if committed by an adult. A.T. appeals the juvenile court dispositional order claiming that there was insufficient evidence to support his adjudication.

We affirm.

FACTS AND PROCEDURAL HISTORY

On January 31, 2006, Meredith Johnson, the property manager for the Beech Meadow Apartments in Beech Grove, Indiana, encountered sixteen-year-old A.T. on the apartment complex property. Johnson and her “courtesy officer” gave A.T. a verbal warning that he was trespassing and further informed him that he was not welcome on the apartment complex property. *Tr.* at 8. Johnson ordered A.T. to leave and to not return.

On April 30, 2006, Johnson, who had not given A.T. subsequent permission to enter the property, observed A.T. in the laundry room of a Beech Meadow building located at 117 Diplomat Court. Johnson called the police and reported A.T.’s unauthorized presence on the apartment complex property.

Officer Christopher Whittaker of the Beech Grove Police Department responded to the dispatch. Upon his arrival, Officer Whittaker spoke with Johnson and contacted Beech Grove dispatch to inquire whether A.T. was “on the trespass list for Beech Meadow Apartments.” *Tr.* at 13. Dispatch confirmed that A.T. had been on the trespass list since January 31, 2006. *Id.* Based on this information, Officer Whittaker knocked on the

¹ See IC 35-43-2-2.

apartment of lessee Linda Thibodeau and asked whether A.T. was inside.² A.T. identified himself, stepped outside the apartment, and Officer Whittaker took him into custody.

The State filed a delinquency petition alleging that A.T. committed criminal trespass. At the close of the June 29, 2006 denial hearing, the court adjudicated A.T. delinquent based upon criminal trespass if committed by an adult. A.T. now appeals. Additional facts will be added as necessary.

DISCUSSION AND DECISION

A.T. contends that there is insufficient evidence to sustain a finding that he committed actions that would have constituted criminal trespass if committed by an adult. Specifically, he argues that: (1) the State failed to prove that Johnson had the authority to keep him off the property; and (2) because he was an invited guest in Thibodeau's apartment, he did not knowingly or intentionally commit criminal trespass.

When the State seeks to have a juvenile adjudicated a delinquent for committing an act that would be a crime if committed by an adult, the State must prove every element of the crime beyond a reasonable doubt. *J.S. v. State*, 843 N.E.2d 1013, 1016 (Ind. Ct. App. 2006), *trans. denied*; *C.T.S. v. State*, 781 N.E.2d 1193, 1200 (Ind. Ct. App. 2003). Upon review of a juvenile adjudication, this court will consider only the evidence and reasonable inferences supporting the judgment. *J.S.*, 843 N.E.2d at 1016. We neither reweigh the evidence nor judge witness credibility. *Id.* If there is substantial evidence of probative value from which a

² In his brief, A.T. refers to Thibodeau as Ms. Harold. This confusion appears to have arisen during Thibodeau's testimony when she spelled her name, "T as in Thomas, H as in Harold, I-B as in boy, O D as in David, E-A-U." *Tr.* at 17.

reasonable trier of fact could conclude that the defendant was guilty beyond a reasonable doubt, we will affirm the adjudication. *Id.*

The criminal trespass statute's purpose is to punish those who willfully or without a bona fide claim of right commit acts of trespass on the land of another. *Woods v. State*, 703 N.E.2d 1115, 1117 (Ind. Ct. App. 1998). "A person who, not having a contractual interest in the property, knowingly or intentionally enters the real property of another person after *having been denied entry* by the other person or that person's agent" commits criminal trespass as a Class A misdemeanor. IC 35-43-2-2(a)(1) (emphasis added). IC 35-42-2-2(b) in pertinent part provides, "A person has been denied entry under subdivision (a)(1) of this section when the person has been denied entry by means of personal communication, oral or written" To sustain a juvenile adjudication for criminal trespass, the State was required to prove beyond a reasonable doubt: (1) that A.T. did not have a contractual interest in the apartment complex property; and (2) that A.T. knowingly and intentionally entered the property after having been denied entry by the owner of the complex or its agent. IC 35-43-2-2(a)(1).

A.T. does not contend that he had a contractual interest in the property. Instead, his arguments pertain to the second element. A.T. first contends that, because Johnson did not have the authority to ban him from the apartment complex premises on January 31, his visit to Beech Meadow Apartments on April 30, 2006 did not occur after *having been denied entry* as required under IC 35-43-2-2(a)(1). A.T. cites to *Travis v. State*, 812 N.E.2d 826 (Ind. Ct. App. 2004) to support his argument that Johnson lacked authority to ban him from the premises. In *Travis*, a Kokomo police officer encountered Travis and others gambling in a

public park. The officer put Travis on a trespass list for the park and told him not to come back. When Travis was discovered in the park two days later, he was arrested and charged with criminal trespass. At trial, the officer was questioned as to his authority to place a citizen on the trespass list for a public park. The officer responded that he was unsure of his authority, but just knew that he could. Following trial, Travis was convicted of criminal trespass. *Travis*, 812 N.E.2d at 828. On appeal, Travis argued that the officer lacked statutory authority to ban him from a public park, and therefore, his subsequent visit was not criminal trespass. This court agreed and reversed Travis's conviction. *Id.* at 830.

The State argues, and we agree, that *Travis* can be distinguished by the fact that Beech Meadow is a private apartment complex and not public property. At trial, both Johnson and Officer Whittaker testified that Johnson was the property manager of the Beech Meadow Apartments, a privately owned complex. *Tr.* at 6, 12. Johnson noted that there were numerous incidents of people loitering on the property. *Id.* at 7. As part of her job, Johnson told such people to leave and not return to the property. *Id.* Johnson related that, on January 31, 2006, she found A.T. on Beech Meadow property and, with the help of her "courtesy officer," informed him that he had to leave the premises and was not welcome to return. *Tr.* at 7-8. The record before us contains no evidence that A.T. ever questioned the authority of Johnson or the courtesy officer to give such an order. Instead, A.T. left the premises when ordered to do so. Johnson was hired as a property manager of private property. Even the *Travis* court acknowledged that Travis's conviction for criminal trespass would have been upheld if the park had been privately owned. *Travis*, 812 N.E.2d at 830.

A.T. next contends that, as Thibodeau's invited guest, he had a fair and reasonable belief that he had the right to be on the property, and that this belief defeated the mens rea required for knowingly or intentionally entering property to which he had been denied access. We find no merit in this contention, which mischaracterizes the real issue. While A.T. was indeed arrested after exiting Thibodeau's apartment, the trespass to which Johnson objected occurred prior to A.T.'s visit with Thibodeau. Johnson found A.T. alone in the laundry room. It was only after Johnson discovered A.T. and left the laundry room in order to call the police that A.T. sought out, and was reluctantly granted, entry to Thibodeau's apartment.³ A.T.'s after-the-fact justification of being Thibodeau's guest does not remedy his prior act of trespassing into the laundry room of the Beech Meadow Apartments.

We find that the evidence presented by the State was sufficient to sustain A.T.'s adjudication for criminal trespass.

Affirmed.

RILEY, J., and FRIEDLANDER, J., concur.

³ While the record before us does not specifically state that A.T. left the laundry room and went to Thibodeau's apartment, the following facts support that chronology. Thibodeau testified that A.T. came to her door on April 30, 2006 and asked if he could come in for a few minutes. *Tr.* at 17. Thibodeau's daughter, with whom A.T. was acquainted, was doing her homework, and Thibodeau limited A.T.'s stay to a maximum of thirty minutes. *Id.* at 17-18. A.T. stayed in Thibodeau's home, without leaving, for fifteen to twenty minutes before the police knocked on the door. *Id.* His presence in the laundry room had to have occurred before he entered the Thibodeau apartment.